

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

KAY E. DREWA
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-334
Case No. 76-10034

S.S.A. No.

HARRISON DRUGS
(Employer)

Employer Account No.

Office of Appeals No. S-3915

The claimant appealed from the decision of the administrative law judge which held that the claimant was disqualified for benefits under section 1256 of the Unemployment Insurance Code and that the employer's reserve account was relieved of benefit charges under section 1032 of the code.

STATEMENT OF FACTS

The claimant last worked for approximately one year as a counter waitress in a drug store in Fallbrook, California. Her last day of employment was May 19, 1976. The claimant left that employment under circumstances set forth below.

The claimant's husband was discharged from the Marines on May 29, 1976. He had been stationed near the place of the claimant's employment in California. Menasha, Wisconsin is the home town of the claimant and her husband. Neither of them wanted to stay in California after the husband's discharge, and both wanted to return to Menasha, because that was the wish of the claimant's husband. The claimant testified as follows in this regard:

"Q Okay. Now, you appealed the initial determination, uh, that you were forced to quit the job. Would you indicate -- could you indicate to the California examiner how you were forced to quit?

"A My husband was discharged on May 29th from the Marine Corp [sic]. He decided he was coming back here so I had no choice but to come with him. So that forced me to quit my job on May 19th."

After giving the California employer four weeks' notice of quitting, the claimant and her husband did return to their home town. Neither the claimant nor her husband had any prospects of employment in Wisconsin at the time of their return. The claimant found employment as a receptionist in a nursing home in Menasha on July 14, 1976, and her husband found employment in a paper mill prior to July 26, 1976.

REASONS FOR DECISION

Section 1256 of the code provides that an individual is disqualified for benefits, and sections 1030 and 1032 of the code provide that the employer's reserve account may be relieved of benefit charges, if the claimant left his most recent work voluntarily without good cause.

There is good cause for the voluntary leaving of work where the facts disclose a real, substantial, and compelling reason of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action (Appeals Board Decision No. P-B-27).

The following appears in Appeals Board Decision No. P-B-26:

"In any case before us involving the leaving of work by a wife to join or accompany her husband at a distant location, we should give recognition to the well established public policy in favor of the maintenance of the marital relationship and against any hindrance thereto. . . ."

Accordingly, there is good cause for a wife to leave her work to accompany her husband to a distant locality,

where residence will be established, if the claimant's leaving is in compliance with her husband's wishes or demands (Appeals Board Decisions Nos. P-B-44, P-B-81, P-B-82, and P-B-145).

Here the claimant quit her job to move to a distant locality with her husband, to establish residence, pursuant to his wishes or demands. We conclude that she left her work for good cause.

It is perhaps appropriate that we observe that in the instant case if it had been the wife's decision to move to Wisconsin, and her husband quit his job to accompany her, such leaving by the husband would be for good cause. For again, in that circumstance, the leaving would be for the purpose of maintenance of the marital relationship.

Appeals Board Decision No. P-B-230 is modified to accord with the principles set forth herein.

DECISION

The decision of the administrative law judge is reversed. The claimant is not disqualified for benefits under section 1256 of the code. The employer's reserve account is not relieved of benefit charges under section 1032 of the code. Benefits are payable if the claimant is otherwise eligible.

Sacramento, California, March 1, 1977.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

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